

REMARKS

Claims 1-5, 7-13, 22 and 24-29 are pending in the present application. It is respectfully submitted that this Response is fully responsive to the outstanding Office Action dated October 28, 2008.

As to the Merits:

As to the merits of this case, the Examiner sets forth the following rejection:

claims 1-5, 7-13, 22 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Construction Drying (Munters 2000) in view of Case Study (Munters 03/2002), Using Desiccant Technology to End Moisture Nightmare on Construction Projects (Munters 02/2002) or Munters (2000/2001).

This rejection is respectfully traversed.

Independent Claim 1:

Independent claim 1 calls for *a method for reducing moisture within a space in a construction project for the purpose preventing structural damage and/or the growth of mold or mildew to components with the space in the construction project, comprising the steps of: determining moisture content level at one or more points within the space in the construction project; and if the moisture level at a selected number of said one or more points is above a threshold, performing moisture removal within said construction project to reduce the moisture*

level of the space to a value below a level sufficient to prevent structural damage and/or growth of mold or mildew on the components within the space, further comprising sealing the space of said construction project where said one or more points is located with a vapour barrier to provide an enclosed area for moisture removal.

It is submitted that Munters 2000 fails to disclose or fairly suggest the features of claim 1 regarding *determining moisture content level at one or more points within the space in the construction project*. In the office action, the Examiner completely failed to indicate the specific portion of the Munters 2000 reference that is being relied upon for teaching this feature of claim 1.

Moreover, while Munters 2000 may bring a concrete slab to specific moisture content (on page 4), Munters 2000 is completely silent with regard to determining moisture content level at one or more points for the concrete slab.

Further, while Munters 2000 may disclose using desiccant dehumidification to remove construction moisture, Munters 2000 is completely silent with regard to determining if moisture contents levels are above a threshold in the concrete slab, and *performing moisture removal within said construction project to reduce the moisture level of the space to a value below a level sufficient to prevent structural damage and/or growth of mold or mildew on the components within the space*.

Finally, with regard to the features of claim 1 regarding *sealing the space of said construction project where said one or more points is located with a vapor barrier to provide an enclosed area for moisture removal*, the Examiner relies on the pictures of "Union Station,

Seattle, Washington”, which the Examiner contends has vapour barrier on the working floor and siding and the picture of “San Francisco, California”, which the Examiner contends has plastic sheeting to cover the windows to form a closed building.

However, it is respectfully submitted that the illustrations of San Francisco, California and Seattle, Washington are extremely unclear and therefore it is difficult to ascertain exactly what is disclosed in such figures. Moreover, it is respectfully submitted that such pictures fail to disclose any type of vapor barrier for sealing a space in a construction project where one or more points determined to have moisture content levels above a threshold is provided. In other words, it is respectfully submitted that the Munters reference fails to disclose that the space in which the concrete slab is provided is sealed off by a vapour barrier.

Moreover, in order to overcome the above-noted drawbacks and deficiencies of the Munters 2000 reference, the Examiner relies on the Munters (02/2002) article and the pictures identified in the Harriman ASHRAE Journal article.

More specifically, the Examiner asserts that:

Munters (02/2002) also discloses the dehumidifier produces air and piped into the closed building using flexible ductwork and direct to specific work areas (moving equipment to different location).

In addition, containment tarps used in the enclosed wet areas were identified in the ASHRAE meeting (January 2003; page 6). These pictures demonstrate the vapour barrier surrounding to create a dry working inside building under construction.

However, it is respectfully submitted that while Munters (02/2002) may disclose that a dehumidifier produces air which is piped into the closed building using flexible ductwork which is then directed to specific work areas, such disclosure is completely different from the features recited in independent claim 1 regard *performing moisture removal within said construction project to reduce the moisture level of the space to a value below a level sufficient to prevent structural damage and/or growth of mold or mildew on the components within the space ... sealing the space of said construction project where said one or more points is located with a vapour barrier to provide an enclosed area for moisture removal.*

In addition, it is respectfully submitted that the Examiner's reliance on the disclosure of the ASHRAE Journal is improper since, as already noted in the Response dated January 24, 2006, Applicants submitted a Declaration under 37 C.F.R. 1.131 that established prior invention relative to the Harriman ASHRAE Journal. Accordingly, Applicants respectfully submit that the Harriman ASHRAE Journal does not qualify as prior art, and the Examiner's reliance on the disclosure of such article is improper.

Independent Claim 22:

Claim 22 call for *measuring moisture content at one or more locations within the space, wherein said one or more locations are selected from the group of locations consisting of a base plates, a stud and a floor, determining whether the measured moisture content meets a threshold indication recommending that drying be performed; positioning and operating within the space one or more drying devices for the purpose or reducing the moisture level within the space and*

thereby reducing the moisture level in structural components of the space, wherein the one or more drying devices are selected from the group consisting of a dehumidifier, a space heater, and an air moving device, further comprising the step of substantially sealing the space off with a vapour barrier relative to other space outside of the space being treated.

It is submitted that Munters 2000 fails to disclose or fairly suggest the features of claim 22 regarding *measuring moisture content at one or more locations within the space, wherein said one or more locations are selected from the group of locations consisting of a base plates, a stud and a floor*. In the final office action, the Examiner completely failed to indicate the specific portion of the Munters 2000 reference that is being relied upon for teaching this feature of claim 22.

Moreover, while Munters 2000 may bring a concrete slab to specific moisture content (on page 4), Munters 2000 fails to measure moisture content of the concrete slab and Munters 2000 also fails to suggest that the concrete slab constitutes a base plate, a stud or a floor.

Munters 2000 is also silent with regard to *determining whether the measured moisture content meets a threshold indication recommending that drying be performed; positioning and operating within the space one or more drying devices for the purpose or reducing the moisture level within the space and thereby reducing the moisture level in structural components of the space, wherein the one or more drying devices are selected from the group consisting of a dehumidifier, a space heater, and an air moving device*. That is, the Examiner has failed in the final office action to specifically point out which portions of the Munters 2000 reference are being relied upon for teachings these features of claim 22.

Finally, with regard to the features of claim 22 regarding *substantially sealing the space off with a vapour barrier relative to other space outside of the space being treated*, the Examiner relies on the picture of “Union Station, Seattle, Washington”, which the Examiner contends has vapour barrier on the working floor and siding and the picture of “San Francisco, California”, which the Examiner contends has plastic sheeting to cover the windows to form a closed building.

However, as noted above, such pictures fail to disclose any type of vapor barrier for sealing a space in a construction project where one or more points determined to have moisture content levels above a threshold is provided. In other words, it is respectfully submitted that the Munters 2000 reference fails to disclose that the space in which the concrete slab is provided is sealed off by a vapour barrier.

Moreover, in order to overcome the above noted drawbacks and deficiencies of the Munters 2000 reference, the Examiner relies on the Munters (02/2002) article, as well as the Harriman ASHRAE Journal.

More specifically, the Examiner asserts:

Munters (02/2002) also discloses the dehumidifier produces air and piped into the closed building using flexible ductwork and direct to specific work areas (moving equipment to different location).

In addition, containment tarps used in the enclosed wet areas were identified in the ASHRAE meeting (January 2003; page 6). These pictures demonstrate the vapour barrier surrounding to create a dry working inside building under construction.

However, it is respectfully submitted that while Munters (02/2002) may disclose that a dehumidifier produces air which is piped into the closed building using flexible ductwork and directed to specific work areas, such disclosure fails to teach or fairly suggest the features of claim 22 regarding *positioning and operating within the space one or more drying devices for the purpose of reducing the moisture level within the space and thereby reducing the moisture level in structural components of the space*. That is, the Munters (02/2002) article fails to disclose that the dehumidifier is positioned and operated within the space that is substantially sealed off with a barrier relative to other spaces outside of the space being treated. Instead Munters (02/2002) must rely on the flexible ductwork of a dehumidifier which is not positioned in the sealed space to perform the drying feature.

Further, as noted above, the Harriman ASHRAE Journal does not qualify as prior art, and the Examiner's reliance on the disclosure of such article is improper.

Independent claim 25

Independent claim 25 calls for *taking initial moisture content readings at locations within the space, determining whether the measured moisture content meets a threshold indication recommending that treatment is warranted*.

As noted above, while Munters 2000 may bring a concrete slab to specific moisture content (on page 4), Munters 2000 fails to measure moisture content of the concrete slab. As such, it is submitted that Munters 2000 fails to disclose or fairly suggest the features of claim 25 regarding *taking initial moisture content readings at locations within the space, determining*

whether the measured moisture content meets a threshold indication recommending that treatment is warranted.

Munters 2000 is also silent with regard to *if the determination is that treatment is warranted, positioning one or more moisture reduction equipments relative to the space; substantially sealing the space off with a vapour barrier relative to other space outside of the space being treated; activating the one or more moisture reduction equipments for the purpose or reducing the moisture level within the space and allowing said moisture reduction equipments to operate for a period of time.* That is, the Examiner has failed in the final office action to specifically point out which portions of the Munters 2000 reference are being relied upon for teachings these features of claim 25.

Finally, it is submitted it is submitted that the Examiner has completely failed to specifically point out which portions of the Munters 2000 reference are being relied upon for teaching the features of claim 25 regarding *taking additional moisture content readings at locations within the space after the period of time has elapsed, determining whether the measured moisture content meets a threshold indication recommending that further treatment is warranted; if the determination is that further treatment is warranted, allowing said moisture reduction equipments to continue to operated for another period of time, thereby reducing the moisture level in structural components of the space.*

In order to overcome the above-noted drawbacks and deficiencies of the Munters 2000 reference, the Examiner relies on the Munters (02/2002) article and the pictures identified in the ASHRAE Journal.

More specifically, the Examiner asserts that:

Munters (02/2002) also discloses the dehumidifier produces air and piped into the closed building using flexible ductwork and direct to specific work areas (moving equipment to different location).

In addition, containment tarps used in the enclosed wet areas were identified in the ASHRAE meeting (January 2003; page 6). These pictures demonstrate the vapour barrier surrounding to create a dry working inside building under construction.

However, it is respectfully submitted that while Munters (02/2002) may disclose that a dehumidifier produces air which is piped into the closed building using flexible ductwork and directed to specific work areas, such disclosure fails to teach or fairly suggest the features of claim 25 regarding *positioning one or more moisture reduction equipments relative to the space; substantially sealing the space off with a vapour barrier relative to other space outside of the space being treated*. That is, the Munters (02/2002) article fails to disclose that the dehumidifier is positioned and operated within the space that is substantially sealed off with a barrier relative to other spaces outside of the space being treated. Instead Munters (02/2002) must rely on the flexible ductwork of a dehumidifier which is not positioned in the sealed space to perform the drying feature.

Further, as noted above, the Harriman ASHRAE Journal does not qualify as prior art, and the Examiner's reliance on the disclosure of such article is improper.

In view of the above remarks, Applicants submit that the claims are in condition for allowance. Applicants request such action at an early date.

Application No.: 10/621,859

Response
Attorney Docket No.: 062374

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to be 'TEB', is written above the printed name of Thomas E. Brown.

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